

REMARKS

Rejection of claims 1 and 3-6 under 35 U.S.C. §103(a)

The examiner rejected claims 1 and 3-6 under 35 U.S.C. §103(a) as being unpatentable over MacGillivray. In the rejection, the examiner reads a human on the animal sensing mechanism in the claim that detects an animal and determines whether the animal is of a first or second type. The examiner also states that a human can manipulate the switch to vary the motor speed. Applicant respectfully submits that the Examiner has not established a prima facie case of obviousness under 35 U.S.C. §103(a). Even if the examiner has established a prima facie case of obviousness, all of the limitations in the pending claims would not have been obvious in view of MacGillivray.

Failure to Establish a Prima Facie Case of Obviousness

In the rejection, the examiner reads a human on portions of the apparatus in the claims. However, the examiner never stated why one of ordinary skill in the art would be motivated to incorporate the function of the human into an apparatus. For this reason, the examiner has failed to establish a prima facie case of obviousness for the pending claims under 35 U.S.C. §103(a).

Merits of the Rejection

The examiner's rejection fails for two reasons. First, there is no teaching or suggestion in MacGillivray for a human to detect an animal and determine whether the animal is of a first or second type. Second, a human varying the motor speed in MacGillivray does not read on an apparatus that automatically changes the speed of the motor according to the type of animal detected by an animal sensing mechanism.

MacGillivray reads on a horse exerciser that is specifically referred to as a hot-walker. The fact that MacGillivray is only used for horses is clear from the title, the Abstract, and throughout the specification. To state that MacGillivray somehow suggests that a human could detect an animal and determine whether the animal is of a first or second type is a clear stretch of MacGillivray beyond its reasonable bounds. Nowhere does MacGillivray teach or suggest "an animal sensing mechanism that detects an animal and determines whether the animal is of a first or a second type" as recited in claim 1. In addition, nowhere does MacGillivray teach or suggest changing the speed of the motor according to the type of animal detected.

The fact that a human can adjust the speed of the motor in MacGillivray does not render obvious an apparatus that includes an animal sensing mechanism that detects an animal and determines whether the animal is of a first or second type, and a controller that causes the motor to run at a first speed when the animal sensing mechanism detects an animal of the first type, the controller causing the motor to run at a second speed when the animal sensing mechanism detects an animal of the second type. For these reasons, claim 1 is clearly allowable over MacGillivray. Applicant respectfully requests reconsideration of the examiner's rejection of claim 1 under 35 U.S.C. §103(a).

Claims 3-6 depend on claim 1, which is allowable for the reasons given above. As a result, claims 3-6 are allowable as depending on an allowable independent claim.

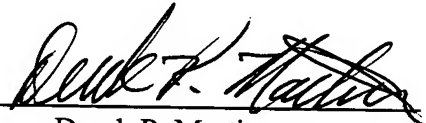
Objection to claim 2

The examiner objected to claim 2 as depending upon a rejected base claim, but stated this claim would be allowable if properly rewritten in independent form. Claim 2 depends on claim 1, which is allowable for the reasons given above. As a result, claim 2 is allowable as depending on an allowable independent claim.

Conclusion

In summary, none of the cited prior art, either alone or in combination, teach, support, or suggest the unique combination of features in applicant's claims presently on file. Therefore, applicant respectfully asserts that all of applicant's claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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